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LOK SABHA

The following report of the Joint Committee on the Bill to declare that certain offices of profit under the Government shall not disqualify the holders thereof for being chosen as, or for being members of Parliament was presented to Lok Sabha on the 10th September 1958:—

Composition of the Joint Committee

Lok Sabha

1. Sardar Hukam Singh—*Chairman*
2. Pandit Thakur Das Bhargava
3. Shri M. R. Krishna
4. Shri Dharanidhar Basumatari
5. Shri Rajeshwar Patel
6. Shri Rohan Lal Chaturvedi
7. Shri M. K. Jinachandran
8. Shri Ram Sahai Tiwari
9. Shri P. Subbiah Ambalam
10. Shri H. Siddananjappa
11. Shri Panna Lal
12. Shri Jaganatha Rao
13. Shri S. R. Damani

14. Shri Shivram Rango Rane
15. Shri Khushwaqt Rai
16. Shri Surendra Mahanty
17. Shri Braj Raj Singh
18. Shri Aurobindo Ghosal
19. Shri S. Easwara Iyer
20. Shri Asoke K. Sen

Rajya Sabha

21. *Dr. Shrimati Seeta Parmanand
22. Shri Amolakh Chand
23. *Shri S. D. Misra
24. @Shri Tajamul Husain
25. Shri Purna Chandra Sharma
26. Shri N. Ramakrishna Iyer
27. @Shri Vijay Singh
28. Shri Abdur Rezzak Khan
29. Shri Rajendra Pratap Sinha
30. *Shri H. D. Rajah.

DRAFTSMAN

Shri S. K. Hiranandani, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri N. N. Mallya—*Deputy Secretary.*
Shri A. L. Rai—*Under Secretary.*

*Ceased to be members of the Joint Committee consequent on their retirement from Rajya Sabha with effect from the 2nd April, 1958 but were re-appointed by Rajya Sabha on the 7th May, 1958 on their re-election to that House.

@Appointed on the 7th May, 1958 by Rajya Sabha *vice* Kazi Karimuddin and Shri C. L. Varma, ceased to be members of the Joint Committee on their retirement from that House.

Report of the Joint Committee

1. the Chairman of the Joint Committee to which the *Bill to declare that certain offices of profit under the Government shall not disqualify the holders thereof for being chosen as, or for being members of Parliament was referred, having been authorised to submit the report on their behalf, present this their report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 5th December, 1957. The motion for reference of the Bill to a Joint Committee of the Houses was moved by Shri Asoke K. Sen on the 14th December, 1957 and was discussed in the Lok Sabha on the 14th and 16th December, 1957 and was adopted on the 16th December, 1957.

3. The Rajya Sabha discussed the motion on the 21st December, 1957 and concurred in the said motion on the same day.

4. The message from the Rajya Sabha was published in Lok Sabha Bulletin Part II, dated the 24th December, 1957.

5. On the 5th May, 1958, the Lok Sabha adopted a motion recommending to Rajya Sabha to appoint five members to the Committee in the vacancies caused by the retirement of five members from that House. The Rajya Sabha concurred in the said motion on the 7th May, 1958. The message from the Rajya Sabha was read out in the Lok Sabha on the 9th May, 1958.

6. The Committee held 16 sittings in all.

7. At their first, second, third, and fourth sittings, the Committee had a preliminary discussion on the provisions of the Bill.

8. The Committee appointed a Sub-Committee on the 3rd February, 1958 to examine the particulars of Committees received from the Ministries of the Central and from State Governments to enable the Committee to draw up a list of Committees whose membership

*Published in Part II, Section 2 of the Gazette of India Extraordinary, dated the 5th December, 1957.

might disqualify from membership of Parliament. The Report of the Sub-Committee was presented on the 24th July, 1958.

9. At their sitting held on the 25th August, 1958, the Committee again authorised the Sub-Committee to examine those Committees information in regard to which was received subsequent to the presentation of the first Report of the Sub-Committee. The Supplementary Report of the Sub-Committee was presented on the 26th August, 1958.

10. One representation from the Indian Medical Association, Delhi was received by the Committee, which was placed in the Camp Library for reference by the members.

11. The Committee considered the Bill clause by clause at their sittings held on the 31st January, 3rd February, 25th, 26th and 28th July, 20th and 25th August and 1st, 3rd and 4th September, 1958.

12. The Report of the Committee was to be presented by the last day of the second week of the Fourth Session of Second Lok Sabha. The Committee were granted two extensions of time; for the first time on the 21st February, 1958 upto the last day of the first week of the Fifth Session, and again on the 16th August, 1958 upto the 10th September, 1958.

13. The Committee considered and adopted the Report on the 8th September, 1958.

14. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

15. *Clause 1.*—As the life of the Prevention of Disqualification Act, 1953 (Act 1 of 1954) has been extended upto the 31st December, 1958 the Committee consider that the present legislation might come into force from that date.

The Clause has been amended accordingly.

16. *New clause 2.*—The Committee felt that the explanation to clause 2(h) of the Bill should be the subject matter of a separate 'definition clause'. This new clause has accordingly been inserted.

17. *Clause 3 (Original clause 2).*—

(i) *Items (a) and (b).*—The amendments made in these items are clarificatory in nature.

(ii) *Item (f).*—The amendment made in this item is to make the intention clear.

(iii) *New item (h).*—In the opinion of the Committee, the expression “adviser”, in original item h(iii) in the Bill is rather wide. The Committee have, therefore, preferred to restore the language of section 3(a) of the Prevention of Disqualification Act, 1953 with suitable minor changes.

(iv) *Item (i).*—*Original item (h) (i) and (ii).*—

This was the most controversial item in the entire Bill as it raised the question of the desirability of appending a schedule to the Bill enumerating the Committees membership of which would entail disqualification. The Committee have given their most careful thought to the question and have come to the conclusion that the law on the subject of disqualification of members of Parliament should be clear and unambiguous. The Committee, therefore, decided that on the model of the British House of Commons Disqualification Act, 1957, the Bill should contain a schedule which should enumerate the Committees whose membership should disqualify. The Committee have accordingly attached a schedule to the Bill, Part I of which enumerates the Committees membership of which would entail disqualification and Part II, the Committees in which the office of chairman, secretary, or member of the standing or executive committees would entail disqualification, but not the office of a member only.

The original item (h) has accordingly been amended.

The Committee are fully aware that in the very nature of things any schedule of the nature now attached cannot be exhaustive or complete at any time. The Committee, therefore, recommend the constitution of a Standing Parliamentary Committee composed of members of both the Houses of Parliament which will undertake the work of continuous scrutiny in respect of all existing and future committees with a view to recommending to the Government which of them ought or ought not to disqualify so that legislation for amending the schedule may be brought forward by Government from time to time.

(v) *Item (j).*—*Original items (i).*—The Committee are of the view that village revenue officer who performs police duties should not be exempted from disqualification.

The item has been amended accordingly.

(vi) *Original item (j).*—The Committee have omitted this item in the original Bill as in their opinion such part-time offices should not be exempted from disqualification for membership of Parliament.

18. *Clause 4 (Original clause 3).*—The amendment made in this clause is of a formal nature.

19. The Committee recommend that the Bill as amended be passed.

NEW DELHI;
The 10th September, 1958.

HUKAM SINGH,
*Chairman,
Joint Committee.*

MINUTES OF DISSENT

I

Article 102 of the Constitution provides as follows:—

“102. (1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

- (a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder;”

Article 191 is similarly worded.

The Parliament passed XXI of 1950, LXVIII of 1951 and 1 of 1954 for declaring certain offices the holding of which will not disqualify. But it was widely felt that the above enactments did not decide the matter appropriately covering all the necessary aspects of the problem to the satisfaction of all concerned.

As a result many members of Parliament representing all shades of opinion approached the late Speaker Shri G. V. Mavalankar and a meeting was subsequently held on 30th April, 1954 to consider this question. It was noted that the main criterion to determine whether an office was an office of profit or not was the emoluments that a member was likely to receive if he held such an office in so far as these enactments mentioned above were concerned. The meeting however thought that it was not a satisfactory position and the aspects of the matter such as the position, power or patronage enjoyed by the holder of that office were also relevant factors which should be taken into account even though no monetary advantage was involved. Ultimately the Speaker in consultation with the Chairman of the Rajya Sabha appointed a Committee of 15 members to study the various matters connected with the issue and the said Committee devoted considerable time to the study of this complicated question and presented their report, which was unanimous.

The present Bill though professing that it was based on the report was in many respects contrary to its recommendations. In effect its approach was not to disqualify any office if the emoluments did not exceed the compensatory allowance which it defined

to mean Rs. 21 per day in addition to conveyance allowance, house rent allowance or travelling allowance for the purpose of enabling the receiver to recoup any expenditure incurred by him in performing the functions of that office. The House felt that this matter was not so simple and could not be fairly decided on the basis of this criterion alone and motions for Select Committee were made in the House and the Government as a result were pleased to bring their own motion for Joint Committee.

After the Committee on Offices of Profit made its report the Parliament of Great Britain passed its law in 1957 in which a schedule of disqualifying offices was appended to the Act. The Committee on Offices of Profit had also examined the composition of about 200 committees or more and produced certain lists of offices which disqualify the holders thereof. But unfortunately the Central and State Governments did not furnish the lists of all the offices and committees and other requisite material. The present Joint Committee also tried their best to collect the entire material but unfortunately they also did not succeed in their attempt. Even all the Ministries of the Central Government did not furnish the required information. No wonder that the States also did not fully comply with the request of the Committee with the result that the schedule appended to the Report is incomplete and it is apprehended that many other committees may be found whose composition and terms may warrant their being included in the Schedule. It is, however, clear and admitted that in so far as future committees are concerned the Schedule could not possibly include or exclude them. In fact the very words of Article 102 indicate that the Parliament is only empowered to declare certain offices which are in existence to be such as would not attract disqualification. Unless the composition of such committees or incidence of such offices were fully examined the Parliament could not express its opinion in anticipation. Moreover, the subject is so complicated and intricate that no uniform and all-embracing principle could satisfactorily clinch the question. The basis of exclusion is the exercise of executive and judicial function or conferment of power, position, influence or patronage by grant of scholarship, lands, etc. or even otherwise. And yet many committees or offices which involved the exercise of executive functions or even conferment of power and patronage have not been included in the Schedule as in the undeveloped state of our country public interest required that the talents and attainments of members of Parliament should be allowed to be utilised for the benefit of the country specially when educational, health or development aspects demanded the same. Moreover, as the consequence of holding the office of profit for members of Parliament or the candidate for election are very serious it was

deemed essential that a clear declaration be made by law if the acceptance of a certain specific office attracted such consequences. This was the *ratio decidendi* of the Act of Great Britain also. This report of the Joint Committee has also brought it out in clear terms.

The Joint Committee went through the terms and composition of about 1200 committees but as previously mentioned its attempt to go through all the committees failed because some Central Ministries and the States did not co-operate. It makes me sad that the best efforts of the Chairman of the Committee who was no less a person than the Deputy Speaker of the Lok Sabha and of our Law Minister and Deputy Law Minister failed in such an important matter and today we feel frustrated in so far that the Schedule is not complete, and if we enact the Schedule we must be in effect doing what we ought not to do if we respect the behests of our Constitution.

This Bill has been designed to preserve the independence of the Members of Parliament which is so important in a democratic State. Freedom of Members of Parliament from being corrupted by executive influence as a result of acceptance of office of profit is the *sine qua non* of free votes and freedom cannot be secured unless the Schedule is complete and it is not wise to deliberately keep the door open for such influences. Nor is it the part of wisdom to give the Schedule an appearance of finality when we know it is not final. I, therefore, proposed that the Bill may be 'finalised' so far as it goes and an understanding be given by the Government that within a period of six months scrutiny will have been finished in regard to the rest of the Committees, so that all candidates and those who are inclined to accept offices of profit may clearly know where they stand.

In the report a reference has been made to the Standing Parliamentary Committee and its undertaking the work of continuous scrutiny in respect of all existing and future committees. But the committee has not been given statutory recognition nor has the assurance of its work in regard to existing committees being finished within six months been given.

I do not agree with certain recommendations of the Committee also.

In the first place it should come into force on 1st January, 1959 and not on 31st December, 1958; otherwise we shall have conflict between the date of enforcement of the Act and the previous one which exempted members and gave immunity for the period including the date 31st December, 1958 and the unwary may be

enmeshed. Secondly, the division was between statutory and non-statutory or advisory and non-advisory committees and having accepted one classification *viz.* statutory or non-statutory should not have accepted the confusion of including advisory committees in addition.

The completeness and finality which the preparation of the Schedule gave to this important matter has been taken away by including the provision about advisory committees whose functions and terms have yet not been determined.

The blank cheque sought to be given in the manner about appointing advisory committees or advisers whose powers and functions are not yet known takes away the entire merit of the legislation and uncertainty and arbitrariness are introduced by the back door. Similarly the Committee should have finally decided the question of disqualification of the so called Revenue Officers, Lambardars, etc. when the entire material was present before itself and not left the matter to be determined by the Scrutiny Officer or other Officers and thereby introduced uncertainty and doubt in this matter.

In this original Bill in [h(iii)] apart from this kind of bodies; statutory and non-statutory another entirely unknown (to any other comparable) entity was introduced.

“(iii) an adviser created temporarily for the purpose of advising the Government or any other authority on any matter of public importance.” Unfortunately there was no room in the classification of statutory and non-statutory committees for this unwanted and strange being and therefore these advisory committees were suggested though there can be no manner of doubt that the advisory committees must either be statutory or non-statutory.

This is not all. With a view to make room for the exercise of personal nepotism even an unusual provision ‘the office of chairman or member of a committee (whether consisting of one or more members) set up temporarily for the purpose etc.’ had to be inserted. This need hardly be stressed that appointment of advisory committees is well known and since several members are appointed usually such appointments have clearly the appearance of impersonal appointments consisting as they do of many members but the appointment of a single man constituting him into the exalted name of a committee is unknown and leaves room for the appearance of personal favour.

If all the Ministries appoint an adviser each for particular bills or matters of public importance the House will be swamped with these advisers. In the Great Britain Act the number of voting Ministers has been limited. We have already exempted Deputy Ministers though the Constitution only exempted the Ministers. We have given further exemption to Parliamentary Secretaries, Chief Whip and even a Whip. There is no further room for advisers of Ministers. I hope the House will think twice before agreeing to this novel institution of adviser whose powers and authorities we do not know.

In regard to advisory committees also and much more for the hybrid adviser who is both an individual and a committee the House will not be advised to give a blank cheque. In many of the advisory Committees we have found that though the name is advisory yet the functions are of executive nature and involve exercise of powers of patronage etc. and therefore to make a provision anticipatory in nature of this wide and all embracing implication is neither just nor legal. We cannot say for this office what powers it will involve and we cannot be a party to declare before-hand that such advisory board or adviser will be an office of profit or not. This attempt is opposed to the basic approach to the question at issue and sets at naught the principal of making a Schedule.

Whether there is Compensatory allowance or no compensatory allowance, the office of adviser to a Minister in the eye of the public will be pregnant with powers of great patronage, honour and power and as such is extremely repugnant to the underlying idea of its not being an office of profit. Thus (h) is wholly unacceptable.

The provision contained in (j) is equally wrong. I do not know if there is any office answering the description of village revenue officers mentioned in this clause in the States. *Lambardar* or *Malguzar* are certainly not revenue officers. *Lambardar* is merely a headman or a village officer as such. There are specific rules about the duties of *patels*, *deshmukhs*, *lambardars* etc. These rules were before the Joint Committee and circulated to the members. Ordinarily, except for police *patels* these persons never discharge the functions of a police officer. The functions of a police officer are not defined anywhere except, perhaps, in the Police Act. In the Criminal Procedure Code police officer incharge of a police station is defined but not a police officer as such. If there is any office the holder of which exercises police functions it is clearly a police officer. According to rules relating to *lambardars* in the Punjab and Rajasthan *lambardars* are enjoined upon in their capacity as *lambardars* to help the police and it is well known that a *lambardar* is always under the

thumb of the police. In many judgements of High Courts these *lambardars* have been regarded as persons before whom confessions if made are inadmissible as also that they are stock witnesses and helpers of police.

In section 123 (8) of the Representation of the People Act, 1951, Village headman as the *lambardar* is called and defined in the Punjab Tenancy Act and other laws was regarded as a person whose help to a candidate would have vitiated the election.

The principle, therefore, that if canvassing or help of a person renders the election invalid and such a person should not be allowed to stand is accepted, as given on page 26 of the Report of the Committee on Offices of Profit, all these persons mentioned in (j) should not have been exempted.

There is a very clever attempt in linking the collection of land revenue with functions of police officers so that all these persons who are considered in popular view as not fit for becoming Members of Parliament are exempted.

These persons who only collect revenue and on whom the rules do not provide any further obligation may or may not be exempted. The collection of revenue and as a result, getting some money clearly justifies their inclusion in the category of offices of profit. But the real grievance is not this. The *lambardar's* duties are defined in the rules. They are fifteen in number and it is notorious that these *lambardars* are thoroughly government henchmen, in every sense of the word. Their exemption is unjustified and is fundamentally opposed to the idea that public interests demand the inclusion of such men from Parliament membership who are under executive influence. A word from *thanedar* or *tehsildar* would determine his vote and exemption for him because he does not discharge the functions of a police officer is not justifiable.

For grounds given on page 22 of the Report of the Committee on Offices of Profit I do not favour exemption for vice-chancellors who are appointed by Government and get their pay from government-controlled sources and are so fully occupied in their work that they can hardly find time for discharging the duties of membership of Parliament which is now itself a full time job.

After hearing the arguments of Honourable members of the Joint Committee I am convinced that (d) and (e) of clause 3 should be deleted.

The Great Britain Act should have served as a guide for us and I am sorry that our approach to the question has not been a right one.

Section 1 of the Act of the Great Britain which is the soul of the whole measure divided all the offices into two. Either they were disqualified or not disqualified. Thus the law is certain and complete.

Here neither all the committees have been scrutinised nor all the offices have been examined. The offices of servants of local bodies controlled by the States, the offices of Honorary Magistrates and other offices have not been scrutinised.

We have further by excepting advisory committees and advisers complicated the question and threw the committees and offices into the hotchpotch of uncertainty. We failed to take a decision about village officials though the entire material was with us.

The Committee agreed to substitute the words 'any police functions' for the words 'any function of a police officer', appearing in the report as the Committee had only passed the words 'any police functions'. Yet I feel, that the words 'police functions' have not been defined anywhere and these words will again give rise to different interpretation and complications. It would have been better if a decision on merits about each official would have been taken.

This is our first attempt at this kind of legislation about offices of profit and I hope an amending Bill will soon be brought to make up the deficiencies and put the entire matter right.

NEW DELHI;

THAKUR DAS BHARGAVA.

The 9th September, 1958.

II

Disqualifying a person for being chosen as, and for being a member of either House of Parliament, if he holds an office of profit under the Government, is a wholesome principle, and has been enshrined in Article 102 of the Constitution.

The present Bill seeks to exempt certain holders of offices of profit from attracting the disqualification under Article 102 of the Constitution.

I am constrained to mention that the final shape in which the Bill has emerged from the Joint Committee, after protracted deliberations and meticulous screenings, has completely frustrated that

objective. Beginning from Vice-Chancellors of Universities and office bearers of statutory and non-statutory bodies to members of home guards and village officials, all holders of offices of profit of diverse categories and complexions have been exempted from incurring disqualification. This, I am afraid, will not only vitiate the democratic fabric but will also prevent the institutional purity of the Parliament of India. Free and fair, elections, redeemed from undue and undesirable influences will assume merely a conceptual and national form, after this Bill is enacted without fundamental modifications.

The Parliament has every reason to be fearful, that a large number of Members who are the holders of offices of profit under the Government, might feel themselves bound to support the Executive—the source of such offices, which are capable of conferring benefits and patronages—when the Executive is in conflict with the Parliament.

In spite of our tireless pleadings, no objective standards and principles could be laid down for discriminating between offices and offices, for the purpose of attracting disqualification.

In the U.K. Act, certain broad principles are clearly discernible, which could have been considered by the Joint Committee.

In the 18th Century, a dividing line was determined, whereby non-political office holders were disqualified and political office holders were not, though their numbers were strictly limited.

In the present century the Spens Committee evolved the following tests in considering a particular office whether it incurred any disqualification:—

- (1) Whether the offices were incompatible with membership of the House of Commons.
- (2) Whether because they involved the physical impossibility of simultaneous attendance in two places.
- (3) Possible patronage and its extent; and
- (4) Conflict of duties.

I regret to say, the Joint Committee had no such test before them and in its absence the whole pattern is chaotic and arbitrary.

I share very strongly the view with the others, that Members of Parliament should on no account associate themselves with industrial and commercial undertakings in the Public Sector, in any capacity. Such offices are thoroughly incompatible with the nature

of the duties expected of a Member of Parliament, who in the ultimate analysis is a wholetime servant of his constituents and their interests. One can either serve the God or the Mammon—certainly not both.

NEW DELHI;

SURENDRA MAHANTY

The 9th September, 1958.

III

I am sorry I cannot concur with the views of the majority of the Committee. On principle I am against any schedule being attached to the Bill. This I plead is not in consonance with the spirit of our constitution.

I want to keep the purity and impartiality of the members of Parliament to remain intact. The Parliament's activities are so vastly expanding now that a serious member of Parliament would have no time left with him to serve honestly on any other body other than Parliament. So there should be no provisions in this Bill by which Members of Parliament might not do full justice to their duties in Parliament. In future there might arise occasions when political parties within the Parliament are so evenly balanced that crossing of floor by even a few members to the other side might endanger the government of day. This will add towards instability of the democratically set up government. For this reason I would have liked that no more provisions were added by which disqualifications of Members of Parliament were removed. The Government would have better scrapped Article 102 of the constitution before coming forward with such a Bill. I hope the Parliament would take a very serious note of it.

NEW DELHI:

BRAJ RAJ SINGH.

The 9th September, 1958.

IV

In spite of the Committee having taken such a long time to consider different points of views it was not possible for it to accommodate all the points of view; and especially due to the unavoidable absence from sittings where decisions on most of the matters in clause 3 were taken, a minute of dissent has become necessary for me.

It would have been better if the Bill had not been made so sketchy in the original drafting itself. The British Act would have been a better guide in this respect. However, as this Act when passed

would be almost an annual cropper before Parliament on par with the Tariff Bill, for incorporating additions and eliminations from the Schedule, there would be scope for improvement. Experience would also show that this is necessary.

A point of view was that there should be a schedule to make it clear beyond doubt membership of which of the existing Committees should disqualify from membership of Parliament. This schedule now forms a part of the Bill. But there should have been a section on par with section 5 of the British Act where the Act itself provides for the amendment of the schedule and ratification by the Parliament from time to time. This has been left to be presumed in the very nature of things but nothing would have been lost by adding an additional clause to the effect in the Bill itself once the schedule was accepted. This may be done by the Houses by an Amendment.

The norms that apply for disqualifying a member of Parliament from sitting on any non-Parliamentary Committee during his membership of Parliament are twofold; (1) a member should be safeguarded from corruptibility to do his duty to the electorate in public interest by being put in a profitable position by the Government of the day where he would gain either in terms of money or power and be tempted to carry out Government's aims as against those of public interest; (2) where his duties as a member of Parliament which should have a first claim on his time, would suffer as a result of this acceptance of a position on a statutory or non-statutory body in an executive capacity, such offices should be avoided.

In my humble opinion in most of the items of clause 3 of the Bill these norms do not seem to have been strictly applied. To make the note brief only a short mention of these reasons is being made.

Clause 3 item (e).—The office of the sheriff should have been dropped from here, as the duty of the office to carry the mace at the swearing in ceremony of the judges of the High Court is not strictly in keeping with the dignity of the position of a member of Parliament in the opinion of some. This is not a point however, that come under the two norms mentioned above.

Item (f).—The Vice Chancellor's office should not be exempted from disqualification for more reasons than one, especially where it can be an office by virtual nomination by Government in spite of the lowest number of votes secured by a candidate for Vice-Chancellor's post as in the current case of the Banaras Hindu University. There are other reasons like the post carrying a salary with it of a substantial amount mainly from Government funds and last but not the

least the Vice-Chancellor as a Member of Parliament taking part in the discussions in the Parliament on affairs under review in case of scandals relating to their University. This might make their position invidious and the discussion undignified also. The members of the Executive Committee or the syndicate can, by no stretch of imagination be considered to be members of an "advisory" body and in the light of the observations in para 17 of the report on item 1 [Original item (h) (i) & (ii)] they also should have been disqualified as being members of an executive body.

*Item (g).—*The period for a "delegation abroad" should have been stated clearly as not being of more than a year as otherwise this would interfere with a member's duty to his Constituency.

*Item (h).—*The period "temporarily" also should have been defined as not being more than a year for the same reason as mentioned under item (g) above.

*Item (j).—*The Patel's office should be excluded only when it is a hereditary office and as such not in the gift of Government as then it would be a paid post in the gift of Government. This is necessary to mention as the State Legislatures specially would take the present Prevention of Disqualification Act as a model for their Acts. Land Revenue being a State Subject, the Patel though not mainly under the obligation of the Central Government is under the obligation of the State Government in any case. In fact, he may not strictly incur a disqualification for a Parliamentary seat, but should do so for the State legislature. The position in this respect prevailing in every State, was not very clear. This may create complications later.

The schedule is not complete as a full list as information from all sources, the States in particular was not available. This fact will have to be provided for by giving the power to a permanent committee of the Houses to temporarily prevent the disqualification incurred until the next amending Act is passed by the Parliament and this as already pointed out above, should have been included by a separate section in this Bill.

NEW DELHI;

SEETA PARMANAND

The 10th September, 1958.

V

The Bill, no doubt, has been improved by the Joint Committee, but, in some respects we differ from the majority and hence we append our note of dissent.

We do not agree with clause 3(d), as we do not consider it proper to remove the disqualification of Home Guards who perform Police functions and who work under the directions and command of Police Officers. It is derogatory for a member of Parliament to function like that. Home Guards are different from the National Cadet Corps, Territorial Army, or Reserve and Auxiliary Airforce, the members of which are embodied for national duties only in case of National emergencies, whereas the Home Guards function even in normal times without any emergency, to perform the Police duties and to help the Police in its day to day functions. A Home Guard is regarded as Police Officer and public servant and has the same powers as a Police Officer when called on duty.

Clause 3(f).—It is not desirable to remove disqualification for a Vice-Chancellor of University to enable him to become a Member of Parliament, as the duties of a Vice-Chancellor are incompatible with the duties of a Member of Parliament. Vice-chancellorship is a wholetime job and now the Membership of the House is also becoming a wholetime business. Moreover, some of the Vice-Chancellors are appointed and are removable by Government and some of them draw salaries and allowances. Hence, considering all these facts, the Committee on Offices of Profit, under paragraph 44 of their report, have advised that exemption from disqualification to the Office of Vice-Chancellor should not be given.

Clause 3(h).—We agree that the Members of Parliament should go on Committees which are of a purely advisory nature and are constituted only for the purpose of making an enquiry and collecting statistics and tending advice to the Government or other authorities, but we have found that many of the advisory Committees are of an objectionable nature where disqualification should not be removed. In the Schedule Part I the very first two items, namely: (a) Advisory Committee for Air India International Corporation and (b) Advisory Committee for the Indian Airlines Corporation, and also the Company Law Advisory Commission, have been placed on the Schedule, the membership of which will entail disqualification, although they are designated as Advisory. This the Joint Committee decided looking into the functions of these Committees.

Therefore to grant a general exemption for all Advisory Committees, without looking into their functions as is being enacted in clause 3(h), is not correct. The wording of this clause therefore needs to be suitably amended.

Clause 3(i).—It was explained to the Joint Committee that clause 3(i) removes disqualification of a Chairman, Director or

Member of any of the existing Statutory or Non-Statutory body and does not apply to the Committees or Commissions to be constituted in future. This intention is not very clearly brought out in clause 3(i). The law should be clear and unambiguous, otherwise it is quite likely that someone may incur disqualification inadvertently. Hence this clause needs to be redrafted to bring the idea more clearly and explicitly.

This clause removes disqualification from all the existing statutory or non-statutory Committees which are not mentioned in the Schedule. The Joint Committee made its best efforts to examine all the existing Committees, Commissions, whether statutory or non-statutory, both in the States and at the Centre, but, in spite of their best efforts to get all the material they could not get information about all the existing Committees. The Sub-Committee in their Report have appended a list of the Committees which they consider to be of a non-objectionable nature, but there may be many more who have not come under the purview of the Sub-Committee, and to grant exemption from disqualification, even of such Committees which have not been examined by the Joint Committee, is not a proper thing to do. By doing so, we are removing disqualification, from Committees which should entail disqualification, if their functions are of a disqualifying nature. Therefore, we are opposed to giving such a blanket cover and such Committees which have not been examined must be examined before granting an exemption. We recommend the amendment of clause 3(i) accordingly.

Clause 3(j).—We totally oppose the incorporation of this clause in the Bill, as we do not approve of the village revenue officer, who might be remunerated by a share or commission of the amount of land revenue collected by him to be given exemption. They are as good a public servant as those who draw regular salaries. In some States, these village revenue officers are under an obligation to help the police in the discharge of their duties, prescribed under the Rules of Service of Village Revenue Officers. We recommend deletion of this clause.

6. *Schedule*.—In drawing up the Schedule, the Joint Committee were guided by one basic fact that the Members of Parliament should not be allowed to go on Committees or Commissions which yield vast executive powers or influence, and deal with large amounts of Government funds. Keeping this in view we recommend that in Part I of the Schedule the following should be added:—

- (a) Atomic Energy Commission,
- (b) Central Board of Film Censors,
- (c) Central Social Welfare Board,

-
- (d) Khadi and Village Industries Commission,
 - (e) Special Recruitment Board,
 - (f) National Development Council, and
 - (g) University Grants Commission.

We may add here that the University Grants Commission in the United Kingdom Act is put on the Schedule, the members of which entail disqualification for being Members of the House of Commons.

To put a Member of Parliament on the Recruitment Board is to violate the very sanctity of the Public Service Commission, which should function free from political influences to which a Member of Parliament is prone to.

NEW DELHI;

The 8th September, 1958.

RAJENDRA PRATAP SINHA
KHUSHWAQT RAI.

Bill No. 93 B of 1957

THE PARLIAMENT (PREVENTION OF
DISQUALIFICATION) BILL, 1957

(AS AMENDED BY THE JOINT COMMITTEE)

(Words side-lined or underlined indicate the amendments suggested
by the Committee; asterisks indicate omissions)

A

BILL

to declare that certain offices of profit under the Government shall
not disqualify the holders thereof for being chosen as, or for
being, members of Parliament.

BE it enacted by Parliament in the Ninth Year of the Republic
of India as follows:—

1. (1) This Act may be called the Parliament (Prevention of Short title
Disqualification) Act, 1958. and com-
mencement.

5 (2) It shall come into force on the 31st day of December, 1958.

2. In this Act, unless the context otherwise requires,—

Definitions.

* * * * *

(a) “compensatory allowance” means any sum of money
payable to the holder of an office by way of daily allowance
10 (such allowance not exceeding the amount of daily allowance
to which a member of Parliament is entitled under the Salaries
and Allowances of Members of Parliament Act, 1954), any con-
veyance allowance, house-rent allowance or travelling allowance
for the purpose of enabling him to recoup any expenditure
15 incurred by him in performing the functions of that office;

(b) "statutory body" means any corporation, committee, commission, council, board or other body of persons, whether incorporated or not, established by or under any law for the than a statutory body.

(c) "non-statutory body" means any body of persons other than a statutory body. 5

Certain
offices of
profit not to
disqualify.

3. It is hereby declared that none of the following offices, in so far as it is an office of profit under the Government of India or the Government of any State, shall disqualify the holder thereof for being chosen as, or for being, a member of Parliament, namely:— 10

(a) any office held by a Minister, Minister of State or Deputy Minister for the Union or for any State, whether *ex officio* or by name;

(b) the office of Chief Whip, Deputy Chief Whip or Whip in Parliament or of a Parliamentary Secretary; 15

(c) the office of a member of any force raised or maintained under the National Cadet Corps Act, 1948, the Territorial Army Act, 1948, or the Reserve and Auxiliary Air Forces Act, 1952; 31 of 1948.
56 of 1948.
62 of 1952.

(d) the office of a member of a Home Guard constituted under any law for the time being in force in any State; 20

(e) the office of sheriff in the city of Bombay, Calcutta or Madras; 20

(f) the office of Vice-Chancellor of a University or of chairman or member of the syndicate, senate, executive committee, council, court or any other body which is an advisory body, connected with a University; 25

(g) the office of a member of any delegation or mission sent outside India by the Government for any special purpose;

(h) the office of chairman or member of a committee (whether consisting of one or more members), set up temporarily for the purpose of advising the Government or any other authority in respect of any matter of public importance or for the purpose of making an inquiry into, or collecting statistics in respect of, any such matter, if the holder of such office is not entitled to any remuneration other than compensatory allowance; 30

(i) the office of chairman, director or member of any statutory or non-statutory body other than any such body as is referred to in clause (h), if the holder of such office is not 35

entitled to any remuneration other than compensatory allowance, but excluding (i) the office of chairman, director or member of any statutory or non-statutory body specified in Part I of the Schedule and (ii) the office of chairman, secretary or member of the standing or executive committee of any statutory or non-statutory body specified in Part II of the Schedule:

(j) the office of village revenue officer, whether called a *lambardar*, *malguzar*, *patel*, *deshmukh* or by any other name, whose duty is to collect land revenue and who is remunerated by a share of, or commission on, the amount of land revenue collected by him, but who does not discharge any police functions.

1950.

1951.

54-

4. The Parliament (Prevention of Disqualification) Act, 1950, Repealed.
the Parliament Prevention of Disqualification Act, 1951, and the
15 Prevention of Disqualification*** Act, 1953, are hereby repealed.

THE SCHEDULE

[See section 3 (i)]

PART I

BODIES UNDER THE CENTRAL GOVERNMENT

Advisory Committee for the Air-India International Corporation 5
appointed under section 41 of the Air Corporations Act, 1953 (27
of 1953).

Advisory Committee for the Indian Airlines Corporation
appointed under section 41 of the Air Corporations Act, 1953 (27
of 1953). 10

Air-India International Corporation established under section
3 of the Air Corporations Act, 1953 (27 of 1953).

Air Transport Council constituted under section 30 of the Air
Corporations Act, 1953 (27 of 1953).

Board of Directors of the Export Risks Insurance Corporation 15
(Private) Limited.

Board of Directors of the Heavy Electricals (Private) Limited.

Board of Directors of the Hindustan Cables (Private) Limited.

Board of Directors of the Hindustan Insecticides (Private)
Limited. 20

Board of Directors of the Hindustan Machine Tools (Private)
Limited.

Board of Directors of the Hindustan Shipyard Limited.

Board of Directors of the Nangal Fertilizers and Chemicals
(Private) Limited. 25

Board of Directors of the National Coal Development Corporation
(Private) Limited.

Board of Directors of the National Development Corporation
(Private) Limited.

Board of Directors of the National Instruments (Private) Limited. 30

Board of Directors of the National Small Industries Corporation
(Private) Limited.

Board of Directors of the Neyveli Lignite Corporation (Private)
Limited.

Board of Directors of the Sindri Fertilizers and Chemicals (Private) Limited.

Board of Directors of the State Trading Corporation of India (Private) Limited.

- 5 Central Warehousing Corporation established under section 17 of the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (28 of 1956).

Coal Board established under section 4 of the Coal Mines (Conservation and Safety) Act, 1952 (12 of 1952).

- 10 Coal Mines Labour Housing Board constituted under section 6 of the Coal Mines Labour Welfare Fund Act, 1947 (32 of 1947).

Commissioners for the Port of Calcutta.

Committee for the allotment of land in the township of Gandhidam.

- 15 Company Law Advisory Commission constituted under section 410 of the Companies Act, 1956 (1 of 1956).

Cotton Textiles Fund Committee constituted under the Textile Funds Ordinance, 1944 (34 of 1944).

- 20 Dock Labour Board, Bombay, established under the Bombay Dock Workers (Regulation of Employment) Scheme, 1956, made under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).

- 25 Dock Labour Board, Calcutta, established under the Calcutta Dock Workers (Regulation of Employment) Scheme, 1956, made under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).

Dock Labour Board, Madras, established under the Madras Dock Workers (Regulation of Employment) Scheme, 1956, made under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).

- 30 Employees' State Insurance Corporation established under section 3 of the Employee's State Insurance Act, 1948 (34 of 1948).

Forward Markets Commission established under section 3 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952).

Indian Air Lines Corporation established under section 3 of the Air Corporations Act, 1953 (27 of 1953).

- 35 Industrial Finance Corporation of India established under section 3 of the Industrial Finance Corporation Act, 1948 (15 of 1948).

Licensing Committee constituted under rule 10 of the Registration and Licensing of Industrial Undertakings Rules, 1952, made under the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Mining Boards constituted under section 12 of the Mines Act, 1952 (35 of 1952).

National Co-operative Development and Warehousing Board established under section 3 of the Agricultural Produce (Development and Warehousing) Corporations Act, 1956 (28 of 1956). 5

Rehabilitation Finance Administration constituted under section 3 of the Rehabilitation Finance Administration Act, 1948 (12 of 1948).

Regional Boards appointed by the Employees' State Insurance Corporation under section 25 of the Employees' State Insurance Act, 1948 (34 of 1948). 10

Standing Committee of the Employees' State Insurance Corporation constituted under section 8 of the Employees' State Insurance Act, 1948 (34 of 1948).

Tariff Commission established under section 3 of the Tariff Commission Act, 1951 (50 of 1951). 15

Trustees of the Port of Bombay.

Trustees of the Port of Madras.

Trustees or Commissioners of any major Port as defined in the Indian Ports Act, 1908 (15 of 1908), other than the Port of Calcutta, 20 Bombay or Madras.

BODIES UNDER STATE GOVERNMENTS

Andhra Pradesh

Agricultural Improvement Fund Committee constituted under section 3 of the Hyderabad Agricultural Improvement Act, 1952. 25

Co-operative Agricultural and Marketing Development Fund Committee.

Livestock Purchasing Committee.

Assam

Adhi Conciliation Boards constituted under section 2A of the 30 Assam Adhiars Protection and Regulation Act, 1948.

Assam Evacuee Property Management Committee constituted under section 12 of the Assam Evacuee Property Act, 1951.

Assam Text Book Committee.

Bihar

Mining Board for Coal Mines.

Text Book and Education Literature Committee.

Bombay

Allocation Committee (Allopathic) under the Employees' State Insurance Scheme.

Allocation Committee (Ayurvedic) under the Employees' State Insurance Scheme.

Board to conduct over-all supervision of the business and affairs of the *Narsinggiriji* Mills, Sholapur.

Bombay Housing Board constituted under section 3 of the Bombay Housing Board Act, 1948.

10 Bombay State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948).

Bombay State Electricity Consultative Council constituted under section 16 of the Electricity (Supply) Act, 1948 (54 of 1948).

15 Medical Service Committee under the Employees' State Insurance Scheme.

Pharmaceutical Committee under the Employees' State Insurance Scheme.

Regional Transport Authority for Ahmedabad, Aurangabad, Bombay, Nagpur, Poona, Rajkot and Thana constituted under 20 section 44 of the Motor Vehicles Act, 1939 (4 of 1939).

Saurashtra Housing Board constituted under section 3 of the Saurashtra Housing Board Act, 1954.

State Transport Authority constituted under section 44 of the Motor Vehicles Act, 1939 (4 of 1939).

25 Vidarbha Housing Board constituted under section 3 of the Madhya Pradesh Housing Act, 1950.

Kerala

Board of Examiners appointed under rule 8 of the Travancore-Cochin Boiler Attendants Rules, 1954.

30 Panel of Assessors constituted under rule 63 of the Travancore-Cochin Boiler Attendants Rules, 1954.

Panel of Assessors constituted under the Travancore-Cochin Economiser Rules, 1956.

Madhya Pradesh

35 Madhya Pradesh Housing Board constituted under section 3 of the Madhya Pradesh Housing Board Act, 1950.

Mahakoshal Housing Board.

Madras

- Committee to select Books for Study for S.S.L.C. Examination.
- Landing and Shipping Fees Committees for Minor Ports.
- Local Committee constituted under regulation 10A of the Employees' State Insurance (General) Regulations, 1950. 5
- Madras Board of Transport.
- Madras State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948).
- Madras State Electricity Consultative Council constituted under section 16 of the Electricity (Supply) Act, 1948 (54 of 1948). 10
- Port Conservancy Boards.
- Port Trust Boards of Minor Ports.
- State Board of Communications.
- Text Books Committee.

Mysore

15

- Board of Management, Mysore Iron and Steel Works, Bhadravathi.
- Board of Management of Industrial Concerns.

Orissa

- Appeal Committee under the Board of Secondary Education. 20
- Orissa Board of Communications and Transport.
- Regional Transport Authority constituted under section 44 of the Motor Vehicles Act, 1939 (4 of 1939).
- State Transport Authority constituted under section 44 of the Motor Vehicles Act, 1939 (4 of 1939). 25

Punjab

- Punjab State National Workers (Relief and Rehabilitation) Board.

Rajasthan

- City Improvement Trust, Kota constituted under the City of Kota Improvement Act, 1946. 30
- Excise Appellate Board, Ajmer.

Rajasthan State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948).

Urban Improvement Board, Jaipur.

Uttar Pradesh

- 5 Government Cement Factory Board.

Local Committees for Agra, Kanpur, Lucknow and Saharanpur appointed under section 25 of the Employees' State Insurance Act, 1948 (34 of 1948).

Sub-Committee to select books for Educational Expansion Department.

U.P. Sugar and Power Alcohol and Labour Housing Board constituted under section 10 of the U.P. Sugar and Power Alcohol Industries Labour Welfare and Development Fund Act, 1950.

West Bengal

- 15 Licensing Board constituted under the regulations made under rule 45 of the Indian Electricity Rules, 1956.

West Bengal Housing Board constituted under the West Bengal Development Corporation Act, 1954.

BODIES IN UNION TERRITORIES

- 20 Delhi Development Authority constituted under section 3 of the Delhi Development Act, 1957 (61 of 1957).

Delhi Electricity Power Control Board constituted under section 5 of the Bombay Electricity (Special Powers) Act, 1946, as applied to Delhi.

- 25 Delhi State Electricity Council constituted under section 16 of the Electricity (Supply) Act, 1948 (54 of 1948).

PART II

BODIES UNDER THE CENTRAL GOVERNMENT

- 30 Central Silk Board constituted under section 4 of the Central Silk Board Act, 1948 (61 of 1948).

Coffee Board constituted under section 4 of the Coffee Act, 1942 (7 of 1942).

Coir Board constituted under section 4 of the Coir Industry Act, 1953 (45 of 1953).

Development Council for Acids and Fertilizers established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Alkalis and Allied Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951). 5

Development Council for Bicycles established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Drugs, Dyes, and Intermediates established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951). 10

Development Council for Food Processing Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Heavy Electrical Engineering Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951). 15

Development Council for Internal Combustion Engines and Power Driven Pumps established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951). 20

Development Council for Light Electrical Engineering Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Machine Tools established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951). 25

Development Council for Non-ferrous Metals including alloys established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Oil-based and Plastic Industries established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951). 30

Development Council for Sugar Industry established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951). 35

Development Council for Textiles made of artificial Silk including artificial Silk Yarn establishment under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

Development Council for Textiles made of Wool, including wool-len yarn, hosiery, carpets and druggets established under section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951).

- 5 Durgah Committee, Ajmer, constituted under section 4 of the Durgah Khawaja Saheb Act, 1955 (36 of 1955).

Indian Central Arecanut Committee.

Indian Central Coconut Committee constituted under section 4 of the Indian Coconut Committee Act, 1944 (10 of 1944).

- 10 Indian Central Cotton Committee constituted under section 4 of the Indian Cotton Cess Act, 1923 (14 of 1923).

Indian Central Jute Committee.

Indian Central Oilseeds Committee constituted under section 4 of the Indian Oilseeds Committee Act, 1946 (9 of 1946).

- 15 Indian Central Sugarcane Committee.

Indian Central Tobacco Committee.

Indian Lac Cess Committee constituted under section 4 of the Indian Lac Cess Act, 1930 (24 of 1930).

- 20 Rubber Board constituted under section 4 of the Rubber Act, 1947 (24 of 1947).

Tea Board constituted under section 4 of the Tea Act, 1953 (29 of 1953).

BODIES UNDER STATE GOVERNMENTS

Andhra Pradesh

- 25 Market Committee constituted under section 4 of the Hyderabad Agricultural Market Act No. II of 1339F.

Market Committee constituted under section 4A of the Madras Commercial Crops Markets Act, 1933.

Bihar

- 30 Bihar State Board of Religious Trusts.

Bihar Subai Majlis Awqaf.

Bodh Gaya Temple Advisory Committee constituted under section 15 of the Bodh Gaya Temple Act, 1949.

- 35 Bodh Gaya Temple Management Committee constituted under section 3 of the Bodh Gaya Temple Act, 1949.

Kerala

Administration Committee for Coir Purchase Scheme.

Malabar Market Committee constituted under section 4A of the Madras Commercial Crops Markets Act, 1933.

Tapioca Market Expansion Board.

5

Madras

Area Committee for Hindu Religious and Charitable Endowments constituted under section 12 of the Madras Hindu Religious and Charitable Endowments Act, 1951.

Madras State Wakf Board constituted under section 9 of the 10 Wakf Act, 1954 (29 of 1954).

Punjab

State Marketing Board constituted under section 3 of the Patiala Agricultural Produce Markets Act, 2004.

M. N. KAUL,
Secretary.